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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

IN RE COLLEGE ATHLETE NIL
LITIGATION

Case No. 4:20-cv-03919-CW

**DECLARATION OF CHRISTOPHER B.
LORD IN SUPPORT OF JOINT
ADMINISTRATIVE OMNIBUS
MOTION TO SEAL**

1 I, Christopher B. Lord, declare as follows:

2 I am an Associate General Counsel at the University of Maryland, College Park (“UMD”).
3 UMD is a member of The Big Ten Conference, which is a defendant in this action. I make this
4 Declaration based on my personal knowledge and investigation, and if called as a witness to testify,
5 I could and would testify competently to the following facts.

6 1. This Declaration is being made in support of the Joint Administration Omnibus
7 Motion to Seal (“Motion”), and pursuant to Civil Local Rules 7-11 and 79-5.

8 2. UMD moves to maintain the confidentiality of certain portions of document filed
9 under seal by the Parties that contain or reflect confidential personal information of individual
10 student-athletes.

11 3. Specifically, UMD requests that certain portions of the documents described herein
12 and as identified in the Proposed Order Regarding Joint Administrative Omnibus Motion to Seal
13 (“Proposed Order”) as entry numbers 188, 539, 545, 546 (the “Confidential Documents”) be
14 maintained under seal.

15 4. A party seeking to file a document under seal must “establish that a document, or
16 portions thereof, are sealable.” Civil L.R. 79-5(b). In connection with a dispositive motion, a
17 designating party must demonstrate that “compelling reasons” exist to protect the information
18 from being disclosed. *Kamakana v. City & County of Honolulu*, 447 F. 3d 1172, 1178-79 (9th
19 Cir. 2006). Redactions, instead of complete removal, can be used to place “limited and clear”
20 portions of information outside the public record. *Id.* at 1183.

21 5. UMD can demonstrate that compelling reasons exist to maintain the following
22 narrowly tailored redactions under seal.

23 **CONFIDENTIAL STUDENT INFORMATION**

24 6. The Confidential Documents contain and reflect confidential personal information
25 of UMD’s student-athletes. UMD is required to keep confidential student personal information, and
26 such information may not be disclosed to the public without first obtaining a release from the
27 student or parent, as FERPA (Family Educational Rights and Privacy Act, 20 U.S.C. 1232g)
28 requires. *See Rosenfeld v. Montgomery Cnty. Pub. Sch.*, 25 F. App’x 123, 132 (4th Cir. 2001)

1 (“[T]he district court should consider FERPA in making its determination whether sealing of the
2 documents in question is appropriate.”).

3 7. Therefore, UMD supports the Parties’ Motion to redact those portions of the
4 Confidential Documents which contain the personal information of individual UMD student-
5 athletes, as identified below and in the Proposed Order:

6 Document	Entry Number	Text to be Sealed
7 Expert Report of 8 Catherine Tucker [ECF 9 No. 251-1]	545	p. 254 ¶ 302
10 Expert Report of 11 Catherine Tucker [ECF No. 251-1]	546	p. 254 n.687

12 8. The limited redactions proposed above are narrowly tailored, and seek to seal only
13 individual UMD student-athletes’ confidential information, the public disclosure of which would
14 harm such third-party individuals. Disclosing these redacted portions publicly is also unnecessary
15 in this litigation, as these student-athletes’ specific identities are irrelevant to Plaintiffs’ arguments
16 in support of class certification.

17 **CONFIDENTIAL NCAA MEMBER INFORMATION**

18 9. The NCAA’s member institutions submit certain information to the NCAA
19 (“NCAA Member Squad List Data”), which contains information regarding the member
20 institutions’ financial aid distributions to student-athletes. The NCAA Member Squad List Data
21 reflects confidential information concerning the member institutions’ finances and financial
22 decisions. This data is submitted under express guarantees of confidentiality and is not released to
23 either the public or other NCAA members on a conference-specific or school-specific basis. The
24 NCAA’s member institutions provide the NCAA Member Squad List Data to the NCAA in reliance
25 on the NCAA’s guarantee of confidentiality. The NCAA produced the NCAA Member Squad List
26 Data in *In re NCAA Athletic Grant-in-Aid Cap Antitrust Litigation* (Case Nos. 4:14-md-2541-CW,
27 4:14-cv-2758-CW) (“*Alston*”) pursuant to an agreement with Plaintiffs in that case to treat such
28

data under the Protective Order as “Counsel Only.”

10. UMD would be harmed by revealing their highly confidential, non-public financial information to other NCAA members and other competitors. *See Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 598 (1978).

11. Therefore, UMD supports the Parties’ Motion to redact the portion of the Expert Report of Daniel A. Rascher [ECF No. 209-2], which contains UMD’s highly sensitive information, as identified below and in the Proposed Order:

Document	Entry Number	Text to be Sealed
Expert Report of Daniel A. Rascher [ECF No. 209-2]	188	p. 112 n.238

12. The limited redaction proposed above is narrowly tailored, and seeks to seal only highly sensitive and confidential information, the public disclosure of which would harm UMD. Disclosing this redacted portion would publicly harm UMD by revealing their highly confidential, current financial data to other NCAA members and other competitors.

CONFIDENTIAL INSTITUTIONAL FINANCIAL INFORMATION

13. The Expert Report of Catherine Tucker [ECF No. 251-1] contains information which reflects confidential financial information regarding UMD’s revenue sources, which is information that is not available to the public, other conferences, or NCAA member institutions at a conference- or school-specific level. UMD would be harmed by the disclosure of such financial information, as it would reveal non-public information regarding UMD’s financial decisions to other NCAA members and other competitors. *See Nixon*, 435 U.S. at 598.

14. Therefore, UMD supports the Parties’ Motion to redact the portion of the Expert Report of Catherine Tucker [ECF No. 251-1], which contains UMD’s confidential financial information, as identified below and in the Proposed Order:

Document	Entry Number	Text to be Sealed
Expert Report of Catherine Tucker [ECF No. 251-1]	539	p. 251 (Fig. 16)

15. For the foregoing reasons, UMD respectfully submits that compelling reasons exist

1 to seal the information as identified above and in the Proposed Order.

2
3 I declare under penalty of perjury under the laws of the United States of America that the
4 foregoing is true and correct.

5 Executed on September 28, 2023, in College Park, Maryland

6 /s/ Christopher B. Lord

7 Christopher B. Lord
8 Associate General Counsel
9 University of Maryland, College Park
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